

FILED

00 MAR 27 PM 2:08

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 HOMER E. HAWKINS (3)

2 CDC # ID. C-55875

3 IRONWOOD STATE PRISON

4 P.O. BOX = 2199

5 Blythe, CA. 92226

6
7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
910 HOMER E. HAWKINS (3),
11 Plaintiff,

CASE No. C-07-5644 SI (pc)

12
13 Vs.REPLY; FROM ORDER TO
SHOW CAUSE RE:14
15 ROBERT DOYLE, Marin

16 County Sheriff; et. al.,

17 Defendants.
1819 Homer E. Hawkins seeks to proceed "In Forma Pauperis" pursuant to (28
20 U.S.C. § 1915) in this action.21 Plaintiff inmate filed three actions in forma pauperis under 42 U.S.C. §
22 1983 were and then dismissed for failure to state a claim by the district court. The
23 challenged/or reply pursuant to 28 U.S.C. § 1915 (g), the court is con-
24 templated or refused plaintiff in forma pauperis status.
25

26 CLAIM - A

27 28 U.S.C. §§ 1915 (e) (2), 1915A, and 1997 (e) (c) (1); See, e.g., Pena
28

CASE No. C-07-5644 SI (pr)

V. Gardner (9th Cir. 1992) 976 F. 2d 469; Barren v. Harrington (9th Cir. 1998) 152 F. 3d 1193. If a court, in deciding whether a complaint states an arguable issue, considers information outside the pleadings, the dismissal become a summary judgment proceeding and the plaintiff is entitled to an opportunity to respond. See Lucas v. California Dept. of Corrections (9th Cir. 1995) 66 F. 3d 245.

CLAIM - B

Plaintiff bring lawsuit against defendants, city, and officials, alleging that specific conditions at the city jail violated my constitutional rights. See Exhibit's * Complaint - (1), (2), (3).

CLAIM - C

Pre-Trial detainees are those individuals who the government has probable cause to believe have committed crimes. Gerstein v. Pugh, 420 U.S. 103, 114, 43 L. Ed. 2d 54, 95 S. Ct. 854 (1975). They are confined pending trial, either because there is cause to believe that they are dangerous or because they cannot afford to make bail. Unlike convicted prisoners, the state has no right to punish them. Bell v. Wolfish, 441 U.S. 520, 532-35, 60 L. Ed. 2d 447, 99 S. Ct. 1861 (1979). Their confinement conditions are analyzed under the Due Process Clause of the "FIFTH and FOURTEENTH AMENDMENTS" rather than the "EIGHTH AMENDMENTS" cruel and unusual punishment, standard which is used for convicted prisoners. The injuries detainees suffer must be necessarily incident to administrative interests

CASE No. C-07-5644 SI(pr)

in safety, security and efficiency. Constitutionally infirm practices are those that are punitive in intent, those that are not rationally related to a legitimate purpose or those that are rationally related but are excessive in light of their purpose. *Id.* at 538, n. 20. The length of a detainee confinement must also be considered in assessing the institution practices. *Bell v. Wolfish*, 441 U.S. at 555, n. 35; *Hutto v. Finney*, 437 U.S. 678, 686-87, 57 L. Ed. 2d 522, 98 S. Ct. 2565 (1978) reh'g denied, 439 U.S. 1122, 99 S. Ct. 1035, 59 L. Ed. 2d 83 (1979); *Campbell v. Cauthron*, 623 F.2d 503, 507 (8th Cir. 1980).

CLAIM - D

Whether the law is clearly established depends on what would be apparent in each situation. Where an official could be expected to know that certain conduct would violate statutory or constitutional right, defendant should be made to hesitate. *Harlow v. Fitzgerald*, 457 U.S. at 819 (emphasis added).

A Pre-Trial detainees have a substantial Due Process interest in effective communication with the counsel and in access to legal materials. When this interest is inadequately respected during pre-trial confinement, the ultimate fairness of this eventual trial can be compromised. (*Campbell v. McGruder*, 188 U.S. App. D.C. 258, 580 F.2d 521, 531-32 (D.C. Cir. 1978) (statistical disparity in convictions even when other factors are controlled).

CLAIM - E

Plaintiff say the allegations alleges the forward reply is deprivation of

CASE No. C-07-5644 SI(pl)

Due Process Rights: (1) and an inadequate opportunity to consult with counsel, (2) no privacy during such consultations, (3) an inadequate law library and notarization service, and (4) the inadequate safeguarding of mail.

(1) Moore, 427 F. Supp. at 576; Ahrens, 434 F. Supp. at 898; Berch v. Stahl, 373 F. Supp. 412 (W.D.N.C. 1974); Souza v. Travisono, 368 F. Supp. 959 (D.C. R.I. 1973), aff'd, 498 F.2d 1120 (1st Cir. 1974); Tones, 330 F. Supp. at 719 (remedy ordered).

(3) Bounds v. Smith, 430 U.S. 817, 822, 52 L. Ed. 2d 72, 97 S. Ct. 1491 (1977); Younger v. Gilmore, 404 U.S. 15, 92 S. Ct. 250, 30 L. Ed. 2d 142 (1971), Id. Bounds, 430 U.S. at 828; Kelsey v. State of Minnesota, 622 F.2d 956 (8th Cir. 1980).

(4) Procanier v. Martinez, 416 U.S. 396, 412-14, 40 L. Ed. 2d 224, 94 S. Ct. 1800 (1974); Woods v. Aldworth, 561 F. Supp. 891 (N.D. Ill. 1983);

CLAIM - F

GRIEVANCES:

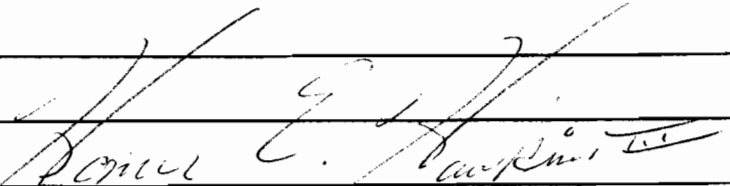
Plaintiff allege that when I tried to use the Internal Grievance Procedures, I were threatened with loss of my privileges, Phones, law library, and Attorney visit's, but it is obviously intended and otherwise constitutes punishment for the exercise of invited conduct.

With respect to the underlying events alleged, the District Court will have to separate all Exhibit's out for liability of the various defendants according to the standards set forth if the District Judge submitte to this action of forma pauperis status.

1 CASE No. C-07-5644 SI (pr)

2
3
4
5
6
7 I DECLARE UNDER PENALTY OF PERJURY THAT THE FORE-
8 GOING IS TRUE AND CORRECT :
9
10
11
12
13
14

15 Signed this 25 day of MARCH , 2008
16
17
18
19
20

21 
22

23 Plaintiff Signature

24 HOMER E. HAWKINS (3)
25
26
27
28



MARIN COUNTY SHERIFF'S OFFICE

3501 Civic Center Drive, Room 145, San Rafael, CA 94903

ROBERT T. DOYLE

Sheriff

DENNIS FINNEGAN

Undersheriff

May 22, 2006

Homer E. Hawkins
C-55875 Ironwood State Prison
P.O. Box 2199
Blythe, CA 92226

Re: Citizen Complaint, CC2007-005 #1-3

Dear Mr. Hawkins,

Please find enclosed the disposition letter from Captain David Augustus dated December, 5, 2007.

In regards to your request for a copy of the first page of each Complaint with the date received or filed and the report or tracking number, I have included a copy of your complaints numbered one through three. Complaint number one is dated as received October 18, 2007 with report number CC07-005.

Complaints number two and three were not dated when received. They also did not receive a case number as they were treated by our office as a continuation of the original complaint.

Sincerely,

ROBERT T. DOYLE
SHERIFF

SCOTT ANDERSON

Lt. Scott Anderson

Cc: Legal Aid of Marin
Jean Bordon, Volunteer Attorney

AREA CODE 415

24-HOUR NUMBER
499-7233

FAX
507-4126

ADMINISTRATION
499-7250

CIVIL
499-7282

COMMUNICATION
SERVICES
499-7243

EMERGENCY
SERVICES
499-6584

INVESTIGATIONS
499-7265

JAIL
499-6655

MAJOR CRIMES
TASK FORCE
884-4878

PATROL
499-7233

RECORDS
499-7284

WARRANTS
499-7297

"In Partnership with our Communities"

www.marinsheriff.org

www.co.marin.ca.us



MARIN COUNTY SHERIFF'S OFFICE

3501 Civic Center Drive, Room 145, San Rafael, CA 94903

ROBERT T. DOYLE

Sheriff

DENNIS FINNEGAN

Undersheriff

December 5, 2007

Homer E. Hawkins, III
C-55875 Ironwood State Prison
P.O. Box 2199
Blythe, CA.92226

Re: Citizen Complaint, CC2007-005 #1-3

Dear Mr. Hawkins,

The investigation into your citizen complaint(s) has been completed pursuant to our Administrative and Jail policies. The complaint stated that your legal mail was opened not in your presence, staff failed to process your inmate grievances correctly and you were denied legal services that is provided to indigent inmates.

The investigation that was conducted to the allegation of opening legal mail not in your presence was determined that this fact did occur. It was further determined that all policies and procedures in place for such occurrence were followed. Albeit infrequent, the occasional opening of legal mail is almost unavoidable considering the daily amount of mail to our facility. Oftentimes the mail in question is inadequately marked contributing to the opening in error.

Jail records indicate that your inmate grievances were processed in compliance with our jail policy. I have read all three investigations that were conducted by a supervisor and reviewed by a jail commander. Since these complaints have been adjudicated through other processes and the investigation did not produced any new violations of policies or procedures, I have determined that this complaint to have no merit and all personnel **exonerated**.

AREA CODE 415

24-HOUR NUMBER
499-7233

FAX
507-4126

ADMINISTRATION
499-7250

CIVIL
499-7282

COMMUNICATION
SERVICES
499-7243

EMERGENCY
SERVICES
499-6584

INVESTIGATIONS
499-7265

JAIL
499-6655

MAJOR CRIMES
TASK FORCE
884-4878

PATROL
499-7233

RECORDS
499-7284

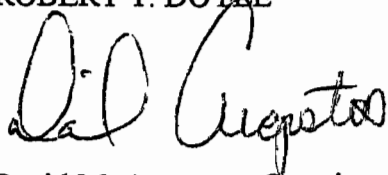
WARRANTS
499-7297

"In Partnership with our Communities"

www.marinsheriff.org

Sincerely,

ROBERT T. DOYLE

A handwritten signature in black ink, appearing to read "D. Augustus". The signature is written in a cursive, flowing style.

David M. Augustus, Captain
Bureau of Detention Services

Cc: Legal Aid of Marin
Jean Bordon, Volunteer Attorney



ADDRESS ALL
COMMUNICATIONS
TO THE SHERIFF

SHERIFF'S OFFICE
COUNTY OF MARIN
HALL OF JUSTICE, CIVIC CENTER
SAN RAFAEL, CALIFORNIA 94903

TELEPHONE
499-7233

CITIZENS COMPLAINT REPORT

Report No. CC07-005 Date Filed _____

REPORTING PARTY

Homer E. Hawkins, III

NAME C-55875 Ironwood State Prison
P.O. Box 2199 Blythe, CA 92226

HOME ADDRESS

PHONE NUMBER

BUSINESS ADDRESS

PHONE NUMBER

VICTIM OF MISCONDUCT (if different than reporting party)

same

NAME

HOME ADDRESS

PHONE NUMBER

BUSINESS ADDRESS

PHONE NUMBER

DATE/TIME OF INCIDENT

LOCATION

WITNESS(ES)

Please See Attachment to Citizen's Complaint #1

NAME

ADDRESS

PHONE NUMBER

NAME

ADDRESS

PHONE NUMBER

NAME OR DESCRIPTION OF SHERIFF'S EMPLOYEE WHO IS THE SUBJECT OF COMPLAINT

Please See Attachment to Citizen's Complaint #1

WAS ANY PARTY TO THE COMPLAINT, OR WITNESS, DETAINED OR INTERVIEWED BY THE SHERIFF'S DEPARTMENT?
IF SO, WHOM Please See Attachment to Citizen's Complaint #1

MAY THE INVESTIGATOR INTERVIEW THE COMPLAINT AT HIS/HER PLACE OF EMPLOYMENT? ☐ YES ☒ NO NA

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN'S COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

Signature of reporting party

Homer E. Hawkins III

RECEIVING OFFICER
SIGNATURE Endy

BADGE NO. 1313

DATE/TIME 10/11/07



ADDRESS ALL
COMMUNICATIONS
TO THE SHERIFF

SHERIFF'S OFFICE
COUNTY OF MARIN
HALL OF JUSTICE, CIVIC CENTER
SAN RAFAEL, CALIFORNIA 94903

TELEPHONE
499-7233

CITIZENS COMPLAINT REPORT		Report No. _____	Date Filed _____
REPORTING PARTY			
<i>Homer E. Hawkins, III</i>			
NAME	<i>C-55875 Ironwood State Prison</i>		
HOME ADDRESS	<i>P.O. Box 2199 Blythe, CA 92226</i>		
BUSINESS ADDRESS	PHONE NUMBER		
BUSINESS ADDRESS	PHONE NUMBER		
VICTIM OF MISCONDUCT (If different than reporting party)			
<i>same</i>			
NAME			
HOME ADDRESS	PHONE NUMBER		
BUSINESS ADDRESS	PHONE NUMBER		
DATE/TIME OF INCIDENT	LOCATION		
WITNESS(ES)			
<i>Please See Attachment Citizen's Complaint #2</i>			
NAME	ADDRESS	PHONE NUMBER	
NAME	ADDRESS	PHONE NUMBER	
NAME OR DESCRIPTION OF SHERIFF'S EMPLOYEE WHO IS THE SUBJECT OF COMPLAINT			
<i>Please See Attachment Citizen's Complaint #2</i>			
WAS ANY PARTY TO THE COMPLAINT, OR WITNESS, DETAINED OR INTERVIEWED BY THE SHERIFF'S DEPARTMENT? IF SO, WHOM <i>Please See Attachment Citizen's Complaint #2</i>			
MAY THE INVESTIGATOR INTERVIEW THE COMPLAINT AT HIS/HER PLACE OF EMPLOYMENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <i>NA</i>			

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN'S COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

Signature of reporting party _____

RECEIVING OFFICER
SIGNATURE _____

BADGE NO. _____ DATE/TIME _____



ADDRESS ALL
COMMUNICATIONS
TO THE SHERIFF

SHERIFF'S OFFICE
COUNTY OF MARIN
HALL OF JUSTICE, CIVIC CENTER
SAN RAFAEL, CALIFORNIA 94903

TELEPHONE
499-7233

CITIZENS COMPLAINT REPORT

Report No. _____ Date Filed _____

REPORTING PARTY

NAME Homer E. Hawkins, III
C-55875 Ironwood State Prison
P.O. Box 2199 Blythe, CA 92226

HOME ADDRESS _____ PHONE NUMBER _____

BUSINESS ADDRESS _____ PHONE NUMBER _____

VICTIM OF MISCONDUCT (if different than reporting party)

NAME same

HOME ADDRESS _____ PHONE NUMBER _____

BUSINESS ADDRESS _____ PHONE NUMBER _____

DATE/TIME OF INCIDENT _____ LOCATION _____

WITNESS(ES)

Please See Attachment Citizen's Complaint #3

NAME _____ ADDRESS _____ PHONE NUMBER _____

NAME _____ ADDRESS _____ PHONE NUMBER _____

NAME OR DESCRIPTION OF SHERIFF'S EMPLOYEE WHO IS THE SUBJECT OF COMPLAINT

Please See Attachment Citizen's Complaint #3

WAS ANY PARTY TO THE COMPLAINT, OR WITNESS, DETAINED OR INTERVIEWED BY THE SHERIFF'S DEPARTMENT?
IF SO, WHOM Please See Attachment Citizen's Complaint #3

MAY THE INVESTIGATOR INTERVIEW THE COMPLAINT AT HIS/HER PLACE OF EMPLOYMENT? ☐ YES ☐ NO NA

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN'S COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

Signature of reporting party _____

RECEIVING OFFICER
SIGNATURE _____

BADGE NO. _____ DATE/TIME _____